The Election Center

Testimony of R. Doug Lewis for U.S. House Administration, May 10, 2001

It is impossible in just five or six minutes to tell you all of the items we can recommend to fix the worst ills of Election 2000. In just a matter of a few more weeks The Election Center's National Task Force on Election Reform, composed of representatives of the nation's elections administrators, will present a report to you, and to the public, a series of more than 30 specific issues for action with more than 80 specific recommendations.

Much discussion has been held on the hill and in the media about what it will cost the federal government to take care of the parts of election reform that most responsible organizations believe are appropriate for federal involvement. My remarks here are aimed at providing rough estimates of the size of the problem so that you can make policy decisions related to any federal action.

Is there a level of involvement for the federal government in elections? Let me start with those that we believe you can and should do as the federal government along with some estimated costs of doing those items. Then I can list just a few of the major items that are up to the states and the local governments and then finally to tell you those things that we think will not work. We would welcome your involvement in the following areas:

Federal Action Items

Voting Equipment, Education, Statewide Databases
Because voting equipment is expensive to replace, and because it is a major policy decision for any community to consider, it is rare that local budget authorities are willing to face up to the calls for newer or more modern equipment. And making it possible for local jurisdictions to buy new voting systems and to not use them past their prime is an appropriate role for the federal government.

We read much about voting equipment in Election 2000 and much of what was written and reported was either inaccurate or mistaken analysis. But they have been so pervasive that much of the misinformation is believed today. And I will not spend your time or mine trying to defend punchcard systems. But the real culprits appear not to be punchcards but central counting systems. And, we now know that precinct counting systems help to significantly decrease voter error. But it took me four months from Election Day of constant speaking to anyone who would listen that we needed to look at reality and not myths if we want to repair the system before the media and policy makers began to understand the real issues.

In my role as director of the voting systems program for the National Association of State Election Directors, I know more about the technology improvements that are available for use in elections than most. But had the best technology available been in use all over Florida, does anyone really believe that a tie vote for president wouldn't have created problems?

Our estimates on modernizing voting systems in the past were based on roughly 200,000 polling locations in America, with an average of 3.5 machines per polling place times $4500 per unit if it includes disability and language minority features (and about $3500 without those features). Using those numbers as a guide, to replace all voting equipment in America would be roughly $3.2 billion. [A recent survey of the National Association of Counties (NACo) indicates that their members indicate an average of 7.1 voting devices per polling location, so

our initial estimates may be a bit too conservative, which would mean doubling that dollar amount if the NACo numbers are sustained by all jurisdictions.]

But be careful. We can't all move to one type of device overnight. Manufacturing can't support it but more importantly, the technical and training expertise is not large enough to do this all at once. This will be a period of years to phase this in.

And the one thing you don't want to do is to force all the jurisdictions to do it by 2004 because the absolute worst thing that can happen to you is to try to implement a new voting system in the presidential election year. The learning curve for the elections staff as well as the voters, and the ability to fix problems experienced with the system means that you need a period of time to use the equipment in smaller elections until you can work out all your training issues for staff and for the voters themselves.

Additionally, we cannot eliminate systems that are central counting or will count paper, because more than one fourth of all the votes we count are absentee ballots (and that number continues to grow), so we will still need optical scan or paper counting systems.

The federal government should provide an amount of money that can be used at the discretion of the states to distribute to the local elections offices (and earmarked so that a jurisdiction can not lower its local funding when receiving federal funds) to be used for replacing voting systems, for administrator education, for pollworker recruitment and training programs, and building statewide voter databases.

> Cost Estimate: initially $1 billion and then $250 million a year, probably for many years in order to modernize the voting equipment and keep up with technology improvements so that systems are not used for longer than originally designed as well as allowing the funds to be used for the other identified projects.

Voluntary Federal Voting Systems Standards

These are an ongoing part of the reason there hasn't been a national disaster involving voting systems all over America. And you need, as a Congress, to make these standards a permanent part of the Office of Election Administration (whether in the FEC or some other agency) and fund them sufficiently that we can keep those standards a dynamic and "living" document.

> Cost: roughly $400,000 a year.

Voluntary Operational Practices Standards

Establish in law the need for voluntary Operational Standards, so that the best practices related to use of voting equipment for the conduct of elections can be established and published for the states to adapt and adopt as their own.

> Cost initially: About $1,000,000 (over two to three years) and then roughly $200,000 a year to keep it dynamic.

Voting Systems Research

Give the Office of Election Administration (OEA) the responsibility for tracking over- and undervotes by each voting system. Give the OEA the responsibility for knowing which jurisdictions have which voting systems and what problems they experience in each election cycle.

> Cost initially: About $1,000,000 (two years to develop) and then roughly $100,000 a year to maintain.

<u>Innovation Series</u>
Beef up the staff and the funding of OEA with earmarked funds so they can continue to publish instructional manuals that can assist in improving the election administration process. The OEA now publishes the Innovation Series which is an exemplary product that cannot be offered often enough because of lack of funding.

> Approximate cost to do each year and print enough copies to distribute to more than 8,000 elections jurisdiction each year: $250,000.

<u>New Elections Class of Mail</u>
Fund a new elections class of mail so that states and locales can improve voter contact. The rate of the new elections class of mail would be pegged at one-half of the then current First Class mail and would include all of the first class delivery and handling (including endorsements and supplementary services of First Class Mail). Let jurisdictions use a rate that is one-half of First Class rate at each level of automation offered by the Postal Service. We recommend that Congress provide for perpetual funding of this (rather than asking the Postal Service to fund it).

> Cost: At roughly three pieces of mail per voter per year (more in some jurisdictions per year and less in others), the US Postal Service has estimated the cost of this rate of mail to be $80 million a year (an amount equal to what the Congress already funds for mailings for the blind per year). We believe that this will grow to about $125 million a year as more jurisdictions offer sample ballots and voter guides.

In 225 years, the federal government has let the local elections jurisdictions fund all of its elections—and the federal government hasn't spent one dime of its money for the conduct of elections. Isn't about time that the federal government pay its fair share of the process?

State Issues (Limited list)

The report of The Election Center's National Task Force on Election Reform will list these in greater detail and when it is presented to you it will cover many specific items for state and local governments. Until that report is available, let me say something that is true but not necessarily popular to hear right now.

America's election system appears to have become a crisis but that may be an overreaction. We have discovered flaws and we are on our way to fixing those. Most of America's elections were well conducted and fair to the citizens of the states. In 98.5 % of our elections, things went well. But the image of the election, based almost entirely on one state and then individual pockets of problems in a relative handful of areas. It is important that we not base all of our decisions and our analysis of Election 2000 on the events and outcomes of what happened in Florida.

Most of the errors in this process won't take vast sums of money to fix. It doesn't take vast sums of money to fix a situation in which there are insufficient laws, procedures and rules.

Florida was a perfect example of how the legislature's lack of understanding about the process can lead to a disaster. Clearly there was a failure of law in Florida.

<u>Standard Definition of a Vote</u>
There was no definition of what constituted a vote before the counting of votes began and so the contestants tried to define votes in their own interest. Voter intent is NOT a standard. It allows individual jurisdictions to count or not count votes that would be handled differently in another county.

Uniform Statewide Counting Procedures

Clearly there were no uniform counting procedures. No uniform recounting procedures. No standards of conducting the process so that each county did the process the same way. And a state law governing portions of that process was designed strictly for state legislative races and had never been considered for its impact on a statewide race, let alone a presidential race.

Fixing those problems doesn't take vast sums of money. It takes legislative action by state legislatures.

Provisional Ballots

States who do not have Election Day registration nor a voter affidavit process should establish a provisional ballot to allow voters to participate in the process and to feel welcome in the process. But provisional ballots are an enormous administrative burden after the election because it takes hours to research and qualify many of the ballots. However, it allows the jurisdictions to qualify more of the voters who were mistakenly left off the rolls and still protect against those who have not properly registered to vote.

Not Recommended

Uniform Poll Closing Hours

It is inordinately complicated to implement and it still does not solve the problem. The problem is not that actual votes are being released too soon. The problem is that the major news networks don't want to wait for real votes, they want to manufacture news based on exit polls. Uniform poll closing hours does not keep the news outlets from conducting exit polls nor from reporting the exit polls.

The real culprit here is that the news media, who foster this manipulation of the voting process, need to become responsible Americans and quit reporting manufactured projections. They need to wait until actual votes are reported and to not broadcast any results for the Presidential race before 11 p.m. Eastern time. This has NEVER been about the public's right to know because they still get to know without the network projections – this has always been about bragging rights and money for advertising. And until the networks (and the other members of their consortium) realize the enormous damage they are doing to the electoral process, this will not be resolved. Shouldn't the strength of America's democracy be more important that the projections?

Weekend Voting or 3 day voting, or National Holiday

Early voting is probably an acceptable answer such as Texas and other states offer, but extended 24 or 48 or 72 hour voting is a nightmare administratively as long as we still rely on the polling place. Because it is virtually impossible to recruit enough Election Day workers now, such a solution would wreak havoc on the entire process and lead to a much-increased likelihood of repeated election disasters. Although we believe a national Election Day holiday will simply lead to a four day holiday for voters and lead to further declines in voter participation, we are aware that at least it is possible to experiment with a national holiday because we can implement it – unless all our Election Day workers actually take it as a holiday.

Internet Voting

It is hard to imagine that there are people who have not read and understood the warnings that the Internet is not yet a safe technology for use in remote site voting. No less than a Presidential study by a pro-Internet group brought together the best Internet experts, security experts, academicians and elections officials and concluded that the Internet was never designed to provide the level of security needed for remote voting (home, office, school, etc.). The resounding conclusion is that it cannot be done safely and securely and that there is no foreseeable time when it can be done. But we still get otherwise intelligent people who want to insist that we need to do it. Controlled access Internet voting (from a polling site under the control of an election official) will probably begin in earnest during 2002 and succeeding elections. As we begin to use it in highly structured environments, we may learn enough to move gradually to remote site voting, but not anytime soon. Remember,

the telephone company once told us that the amazing invention of the touch tone telephone would lead to voting from home or office over the telephone. And that was more than 30 years ago.

There are others too, but in the interest of time, we will hold them until the national report is released.

The Election Center
an international service organization of voter registrars and elections administrators

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Background Information on The Election Center

The Election Center is a nonpartisan, nonprofit organization that specializes in voter registration and election administration issues. We work with the nation's elections administrators at all levels of government to make democracy work. With more than 1,000 members from the town, city, county and state levels, the Center is the largest organization representing elections officials in America.

Our organization, The Election Center, is the premiere elections training organization in America and we offer seminars annually to train election and registration administrators how to do this process better. We train between 600 and 1,000 elections administrators every year in our sessions.

We have been doing this since 1985 when two former staff members of the Federal Election Commission's Clearinghouse for Elections Administration left the FEC to start The Election Center because they felt that the Federal government was never going to put the resources into training better elections administrators. Thanks to a three-year grant of significant funds from the Ford Foundation in those early years, the Center has been able to establish itself as the principal training organization for the nation's elections administrators.

Additionally, we keep state and local governments informed on new trends in elections, we track federal legislation for them, we track court decisions related to elections and we serve as a resource to state and local governments for research issues related to state election laws and local procedures.

- We have done surveys for the committees of jurisdiction for the U.S. Congress and have worked closely for many years with the Senate Rules Committee and the House Administration Committee (and its predecessors and subcommittees).
- We have served as a resource to the U.S. Department of Justice, the General Accounting Office, the U.S. Postal Service, and to the court appointed masters chosen to oversee the Teamsters election.
- Our work with the U.S. Postal Service resulted in the Postal Service establishing **a postal logo** for identifying **"Official Elections Mail"** to the only organization outside of the postal service in its history.
- We have trained election officials from other governments throughout the world and, additionally, they have attended conferences and workshops sponsored by us.
- We also offer a **Professional Education Program** in conjunction **with Auburn University** in Alabama where the Auburn master's in public administration faculty teaches most of our 12 core courses which leads to certification of elections professionals with the highest designation that can be earned in our profession: **Certified Elections/Registration Administrator (CERA).**
- We started a program six years ago to recognize the best professional practices with our **Professional Practices Papers** program, copies of which can be obtained through our Houston offices.

The Election Center serves as the day-to-day management organization for the **National Association of State Election Directors (NASED) voting systems program.** We work with the voting systems manufacturers and the states to test voting equipment and its software used for tabulating votes and reporting results. We don't do the actual testing, we find and work with Independent Testing Authorities (ITAs) to perform this testing so that voting systems in America meet or exceed the **Federal Voting Systems Standards.** Hardware and firmware testing are performed by Wyle Laboratories in Huntsville, Alabama. Software testing was performed previously by Nichols Research Labs and all the people who were performing that service at Nichols Research

ve since moved to PSINet, also in Huntsville, which is our current software testing lab although with all the
ame people who did the work for the last four years.

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